

House Study Bill 702 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
LABOR BILL BY CHAIRPERSON
OLSON)

A BILL FOR

1 An Act concerning public employee collective bargaining,
2 including provisions allowing reasonable reimbursement for
3 employee organization services provided to certain executive
4 branch employees, and including applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

PUBLIC EMPLOYEE COLLECTIVE BARGAINING

Section 1. Section 20.1, subsection 2, paragraph e, Code 2009, is amended to read as follows:

e. Providing mediators, ~~fact finders~~, and arbitrators to resolve impasses in negotiations.

Sec. 2. Section 20.1, subsection 2, paragraph g, Code 2009, is amended to read as follows:

g. ~~Assisting the attorney general in the preparation of~~ Preparing legal briefs and ~~the presentation of~~ presenting oral arguments in the district court, the court of appeals, and the supreme court in cases affecting the board.

Sec. 3. Section 20.3, subsection 4, Code 2009, is amended to read as follows:

4. "*Employee organization*" means an organization of any kind in which public employees participate and which exists for the primary purpose of representing ~~publie~~ employees in their employment relations.

Sec. 4. Section 20.3, subsection 5, Code 2009, is amended by striking the subsection.

Sec. 5. Section 20.5, subsection 3, Code 2009, is amended to read as follows:

3. The chairperson and the remaining two members shall be compensated as provided in section 7E.6, subsection 5. Members of the board and ~~other~~ employees of the board shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses and salaries shall be paid from appropriations for such purposes and the board shall be subject to the budget requirements of chapter 8.

Sec. 6. Section 20.6, subsection 1, Code 2009, is amended to read as follows:

1. ~~Administer~~ Interpret, apply, and administer the provisions of this chapter.

Sec. 7. Section 20.10, subsection 2, paragraph f, Code 2009, is amended to read as follows:

1 *f.* Deny the rights accompanying certification ~~or exclusive~~
2 ~~recognition~~ granted in this chapter.

3 Sec. 8. Section 20.10, subsection 3, paragraph b, Code 2009,
4 is amended to read as follows:

5 *b.* Interfere, restrain, or coerce a public employer with
6 respect to rights granted in this chapter or with respect to
7 selecting a representative for the purposes of negotiating
8 collectively ~~on~~ or the adjustment of grievances.

9 Sec. 9. Section 20.10, subsection 3, paragraph *f*, Code 2009,
10 is amended to read as follows:

11 *f.* Violate the provisions of sections 732.1 to 732.3,
12 which are hereby made applicable to public employers, public
13 employees, and ~~public~~ employee organizations.

14 Sec. 10. Section 20.10, subsection 4, Code 2009, is amended
15 to read as follows:

16 4. The expressing of any views, argument or opinion, or
17 the dissemination thereof, whether orally or in written,
18 printed, graphic, or visual form, shall not constitute or be
19 evidence of any ~~unfair labor~~ prohibited practice under any of
20 the provisions of this chapter, if such expression contains no
21 threat of reprisal or force or promise of benefit.

22 Sec. 11. Section 20.11, subsections 1, 2, and 3, Code 2009,
23 are amended to read as follows:

24 1. Proceedings against a party alleging a violation of
25 section 20.10, shall be commenced by filing a complaint with
26 the board within ninety days of the alleged violation, causing
27 a copy of the complaint to be served upon the accused party ~~in~~
28 ~~the manner of an original notice as provided in this chapter.~~
29 The accused party shall have ten days within which to file
30 a written answer to the complaint. However, the board may
31 conduct a preliminary investigation of the alleged violation,
32 and if the board determines that the complaint has no basis in
33 fact, the board may dismiss the complaint. The board shall
34 promptly thereafter set a time and place for hearing in the
35 county where the alleged violation occurred, provided, however,

1 that the presiding officer may conduct the hearing through the
2 use of technology from a remote location. The parties shall
3 be permitted to be represented by counsel, summon witnesses,
4 and request the board to subpoena witnesses on the requester's
5 behalf. Compliance with the technical rules of pleading and
6 evidence shall not be required.

7 2. The board may designate one of its members, an
8 administrative law judge, or any other qualified person
9 employed by the board to ~~conduct~~ serve as the presiding
10 officer at the hearing. The ~~administrative law judge presiding~~
11 ~~officer~~ has the powers as may be exercised by the board for
12 conducting the hearing and shall follow the procedures adopted
13 by the board for conducting the hearing. The proposed decision
14 of the ~~administrative law judge presiding officer~~ may be
15 appealed to the board ~~and the board may hear the case de novo~~
16 ~~or upon the record as submitted before the administrative law~~
17 ~~judge, utilizing procedures governing appeals to the district~~
18 ~~court in this section so far as applicable, or reviewed on~~
19 motion of the board, in accordance with the provisions of
20 chapter 17A.

21 3. The board shall appoint a certified shorthand reporter to
22 report the proceedings and the board shall fix the reasonable
23 amount of compensation for such service, and for any transcript
24 requested by the board, which ~~amount~~ amounts shall be taxed as
25 other costs.

26 Sec. 12. Section 20.13, subsections 2 and 3, Code 2009, are
27 amended to read as follows:

28 2. Within thirty days of receipt of a petition ~~or notice~~
29 ~~to all interested parties if on its own initiative,~~ the
30 board shall conduct a public hearing, receive written or oral
31 testimony, and promptly thereafter file an order defining
32 the appropriate bargaining unit. In defining the unit,
33 the board shall take into consideration, along with other
34 relevant factors, the principles of efficient administration
35 of government, the existence of a community of interest among

1 public employees, the history and extent of public employee
2 organization, geographical location, and the recommendations
3 of the parties involved.

4 3. Appeals from such order shall be governed by ~~appeal~~
5 ~~provisions provided in section 20.11~~ the provisions of chapter
6 17A.

7 Sec. 13. Section 20.14, subsection 2, paragraph a, Code
8 2009, is amended to read as follows:

9 a. The employee organization has submitted a request to a
10 public employer to bargain collectively ~~with~~ on behalf of a
11 designated group of public employees.

12 Sec. 14. Section 20.14, subsection 6, Code 2009, is amended
13 by striking the subsection.

14 Sec. 15. Section 20.15, subsections 1, 2, and 6, Code 2009,
15 are amended to read as follows:

16 1. Upon the filing of a petition for certification
17 of an employee organization, the board shall submit a
18 question to the public employees at an election in ~~an~~
19 ~~appropriate~~ the bargaining unit found appropriate by the board.
20 The question on the ballot shall permit the public employees
21 to vote for no bargaining representation or for any employee
22 organization which has petitioned for certification or which
23 has presented proof satisfactory to the board of support of
24 ten percent or more of the public employees in the appropriate
25 unit.

26 2. If a majority of the votes cast on the question is
27 for no bargaining representation, the public employees in
28 the bargaining unit found appropriate by the board shall not
29 be represented by an employee organization. If a majority
30 of the votes cast on the question is for a listed employee
31 organization, then ~~the~~ that employee organization shall
32 represent the public employees in ~~an appropriate~~ the bargaining
33 unit found appropriate by the board.

34 6. a. A petition for certification as ~~an~~ exclusive
35 bargaining representative of a bargaining unit shall not be

1 considered by the board for a period of one year from the
2 date of the ~~certification or~~ noncertification of an employee
3 organization as the exclusive bargaining representative or of
4 that bargaining unit following a certification election.

5 A petition for certification as the exclusive bargaining
6 representative of a bargaining unit shall also not be
7 considered by the board if the bargaining unit is at that time
8 represented by a certified exclusive bargaining representative.

9 b. A petition for the decertification of the exclusive
10 bargaining representative of a bargaining unit shall not be
11 considered by the board for a period of one year from the date
12 of its certification, or within one year of its continued
13 certification following a decertification election, or during
14 the duration of a collective bargaining agreement which, for
15 purposes of this section, shall be deemed not to exceed two
16 years. However, if a petition for decertification is filed
17 during the duration of a collective bargaining agreement, the
18 board shall award an election under this section not more than
19 one hundred eighty days and not less than one hundred fifty
20 days prior to the expiration of the collective bargaining
21 agreement. If an employee organization is decertified, the
22 board may receive petitions under section 20.14, provided that
23 no such petition and no election conducted pursuant to such
24 petition within one year from decertification shall include as
25 a party the decertified employee organization.

26 c. A collective bargaining agreement with the state, its
27 boards, commissions, departments, and agencies shall be for two
28 years and the provisions of a collective bargaining agreement
29 except agreements agreed to or tentatively agreed to prior to
30 July 1, 1977, or arbitrators' or arbitrator's award affecting
31 state employees shall not provide for renegotiations which
32 would require the refinancing of salary and fringe benefits
33 for the second year of the term of the agreement, except as
34 provided in section 20.17, subsection 6, and the effective date
35 of any such agreement shall be July 1 of odd-numbered years,

1 provided that if an exclusive bargaining representative is
2 certified on a date which will prevent the negotiation of a
3 collective bargaining agreement prior to July 1 of odd-numbered
4 years for a period of two years, the certified collective
5 bargaining representative may negotiate a one-year contract
6 with a the public employer which shall be effective from
7 July 1 of the even-numbered year to July 1 of the succeeding
8 odd-numbered year when new contracts shall become effective.
9 ~~However, if a petition for decertification is filed during~~
10 ~~the duration of a collective bargaining agreement, the board~~
11 ~~shall award an election under this section not more than one~~
12 ~~hundred eighty days nor less than one hundred fifty days prior~~
13 ~~to the expiration of the collective bargaining agreement. If~~
14 ~~an employee organization is decertified, the board may receive~~
15 ~~petitions under section 20.14, provided that no such petition~~
16 ~~and no election conducted pursuant to such petition within~~
17 ~~one year from decertification shall include as a party the~~
18 ~~decertified employee organization.~~

19 Sec. 16. Section 20.17, subsection 3, Code 2009, is amended
20 to read as follows:

21 3. Negotiating sessions, strategy meetings of public
22 employers ~~or employee organizations~~, mediation, and the
23 deliberative process of arbitrators shall be exempt from the
24 provisions of chapter 21. However, the employee organization
25 shall present its initial bargaining position to the public
26 employer at the first bargaining session. The public employer
27 shall present its initial bargaining position to the employee
28 organization at the second bargaining session, which shall be
29 held no later than two weeks following the first bargaining
30 session. Both sessions shall be open to the public and subject
31 to the provisions of chapter 21. Parties who by agreement
32 are utilizing a cooperative alternative bargaining process
33 may exchange their respective initial interest statements
34 in lieu of initial bargaining positions at these open
35 sessions. Hearings conducted by arbitrators shall be open to

1 the public.

2 Sec. 17. Section 20.17, subsection 6, Code 2009, is amended
3 to read as follows:

4 6. ~~No~~ A collective bargaining agreement or ~~arbitrators'~~
5 ~~decision~~ arbitrator's award shall not be valid or enforceable
6 if its implementation would be inconsistent with any statutory
7 limitation on the public employer's funds, spending or budget
8 or would substantially impair or limit the performance of any
9 statutory duty by the public employer. A collective bargaining
10 agreement or ~~arbitrators'~~ arbitrator's award may provide for
11 benefits conditional upon specified funds to be obtained by
12 the public employer, but the agreement shall provide either
13 for automatic reduction of such conditional benefits or for
14 additional bargaining if the funds are not obtained or if a
15 lesser amount is obtained.

16 Sec. 18. Section 20.17, subsection 10, Code 2009, is amended
17 to read as follows:

18 10. The negotiation of a proposed collective bargaining
19 agreement by representatives of a state public employer and
20 a state employee organization shall be complete not later
21 than March 15 of the year when the agreement is to become
22 effective. The board shall provide, by rule, a date on which
23 any impasse item must be submitted to binding arbitration and
24 for such other procedures as deemed necessary to provide for
25 the completion of negotiations of proposed state collective
26 bargaining agreements not later than March 15. The date
27 selected for the mandatory submission of impasse items to
28 binding arbitration shall be sufficiently in advance of March
29 15 to ~~insure~~ ensure that the ~~arbitrators' decision~~ arbitrator's
30 award can be reasonably made before March 15.

31 Sec. 19. Section 20.17, subsection 11, Code 2009, is amended
32 to read as follows:

33 11. a. In the absence of an impasse agreement negotiated
34 pursuant to section 20.19 which provides for a different
35 completion date, public employees represented by a certified

1 employee organization who are teachers licensed under chapter
2 272 and who are employed by a public employer which is a
3 school district or area education agency shall complete the
4 negotiation of a proposed collective bargaining agreement
5 not later than May 31 of the year when the agreement is to
6 become effective. The board shall provide, by rule, a date
7 on which impasse items in such cases must be submitted to
8 binding arbitration and for such other procedures as deemed
9 necessary to provide for the completion of negotiations of
10 proposed collective bargaining agreements not later than
11 May 31. The date selected for the mandatory submission of
12 impasse items to binding arbitration in such cases shall
13 be sufficiently in advance of May 31 to ensure that the
14 ~~arbitrators' decision~~ arbitrator's award can be reasonably made
15 before by May 31.

16 ~~b. If the public employer is a community college, the~~
17 ~~following apply:~~

18 ~~{1} b. The negotiation of a proposed collective bargaining~~
19 ~~agreement shall be complete not later than May 31 of the~~
20 ~~year when the agreement is to become effective, absent the~~
21 ~~existence~~ In the absence of an impasse agreement negotiated
22 pursuant to section 20.19 which provides for a different
23 completion date, public employees represented by a certified
24 employee organization who are employed by a public employer
25 which is a community college shall complete the negotiation
26 of a proposed collective bargaining agreement not later than
27 May 31 of the year when the agreement is to become effective.
28 The board shall ~~adopt rules providing for~~ provide, by rule, a
29 date on which impasse items in such cases must be submitted to
30 binding arbitration and for such other procedures as deemed
31 necessary to provide for the completion of negotiations of
32 proposed collective bargaining agreements not later than
33 May 31. The date selected for the mandatory submission of
34 impasse items to binding arbitration in such cases shall
35 be sufficiently in advance of May 31 to ensure that the

1 ~~arbitrators' decision~~ arbitrator's award can be reasonably made
2 by May 31.

3 ~~(2)~~ c. Notwithstanding the provisions of ~~subparagraph~~
4 ~~(1)~~ paragraphs "a" and "b", the May 31 deadline may be waived by
5 mutual agreement of the parties to the collective bargaining
6 agreement negotiations.

7 Sec. 20. Section 20.18, unnumbered paragraph 1, Code 2009,
8 is amended to read as follows:

9 An agreement with an employee organization which is
10 the exclusive representative of public employees in an
11 appropriate unit may provide procedures for the consideration
12 of public employee and employee organization grievances ~~and of~~
13 ~~disputes~~ over the interpretation and application of agreements.
14 Negotiated procedures may provide for binding arbitration of
15 public employee and employee organization grievances ~~and of~~
16 ~~disputes~~ over the interpretation and application of existing
17 agreements. An arbitrator's decision on a grievance may not
18 change or amend the terms, conditions, or applications of the
19 collective bargaining agreement. Such procedures shall provide
20 for the invoking of arbitration only with the approval of the
21 employee organization in all instances, and in the case of an
22 employee grievance, only with the additional approval of the
23 public employee. The costs of arbitration shall be shared
24 equally by the parties.

25 Sec. 21. Section 20.19, Code 2009, is amended to read as
26 follows:

27 **20.19 Impasse procedures — agreement of parties.**

28 1. As the first step in the performance of their duty to
29 bargain, the public employer and the employee organization
30 shall endeavor to agree upon impasse procedures. Such
31 agreement shall provide for implementation of these impasse
32 procedures not later than one hundred twenty days prior to
33 the certified budget submission date of the public employer.
34 However, if public employees represented by the employee
35 organization are teachers licensed under chapter 272, and the

1 public employer is a school district or area education agency,
2 the agreement shall provide for implementation of impasse
3 procedures not later than one hundred twenty days prior to May
4 31 of the year when the collective bargaining agreement is
5 to become effective. If the public employer is a community
6 college, the agreement shall provide for implementation of
7 impasse procedures not later than one hundred twenty days prior
8 to May 31 of the year when the collective bargaining agreement
9 is to become effective. If the public employer is not subject
10 to the budget certification requirements of section 24.17 and
11 other applicable sections of the Code, the agreement shall
12 provide for implementation of impasse procedures not later than
13 one hundred twenty days prior to a date agreed upon by the
14 public employer and the employee organization or, if no date is
15 agreed upon, May 31 of the year when the collective bargaining
16 agreement is to be effective. If the parties fail to agree
17 upon impasse procedures under the provisions of this section,
18 the impasse procedures provided in sections 20.20 to 20.22
19 shall apply.

20 2. Parties who by agreement are utilizing a cooperative
21 alternative bargaining process shall, at the outset of such
22 process, agree upon a method and schedule for the completion
23 of impasse procedures should they fail to reach a collective
24 bargaining agreement through the use of such alternative
25 bargaining process.

26 Sec. 22. Section 20.20, Code 2009, is amended to read as
27 follows:

28 **20.20 Mediation.**

29 In the absence of an impasse agreement negotiated pursuant
30 to section 20.19 or the failure of either party to utilize its
31 procedures, one hundred twenty days prior to the certified
32 budget submission date, or one hundred twenty days prior to
33 May 31 of the year when the collective bargaining agreement
34 is to become effective if public employees represented by the
35 employee organization are teachers licensed under chapter

1 272 and the public employer is a school district or area
2 education agency, the board shall, upon the request of either
3 party, appoint an impartial and disinterested person to act as
4 mediator. If the public employer is a community college or is
5 not subject to the budget certification requirements of section
6 24.17 and other applicable sections of the Code, and in the
7 absence of an impasse agreement negotiated pursuant to section
8 20.19 or the failure of either party to utilize its procedures,
9 one hundred twenty days prior to May 31 of the year when the
10 collective bargaining agreement is to become effective, the
11 board, upon the request of either party, shall appoint an
12 impartial and disinterested person to act as mediator. It
13 shall be the function of the mediator to bring the parties
14 together to effectuate a settlement of the dispute, but the
15 mediator may not compel the parties to agree.

16 Sec. 23. Section 20.22, subsections 1, 2, and 3, Code 2009,
17 are amended to read as follows:

18 1. If an impasse persists ~~after the findings of fact and~~
19 ~~recommendations are made public by the fact-finder, the parties~~
20 ~~may continue to negotiate or~~ ten days after the mediator has
21 been appointed, the board shall have the power, upon request
22 of either party, to arrange for arbitration, which shall be
23 binding. The request for arbitration shall be in writing and a
24 copy of the request shall be served upon the other party.

25 2. ~~a.~~ Each party shall ~~submit to the board~~ serve its final
26 offer on each of the impasse items upon the other party within
27 four days of the board's receipt of the request a final offer
28 ~~on the impasse items with proof of service of a copy upon the~~
29 ~~other party for arbitration.~~ Each party shall also submit a
30 copy of a draft of the proposed collective bargaining agreement
31 to the extent to which agreement has been reached and the
32 name of its selected arbitrator. The parties may continue
33 to negotiate all offers until an agreement is reached or a
34 decision an award is rendered by the panel of arbitrators.

35 ~~b.~~ As an alternative procedure, the two parties may agree

1 ~~to submit the dispute to a single arbitrator. If the parties~~
2 ~~cannot agree on the arbitrator within four days, the selection~~
3 ~~shall be made pursuant to subsection 5~~ arbitrator. The full
4 costs of arbitration under this ~~provision~~ section shall be
5 shared equally by the parties to the dispute.

6 3. The submission of the impasse items to the
7 ~~arbitrators~~ arbitrator shall be limited to those ~~issues that~~
8 ~~had been considered by the fact-finder and~~ items upon which
9 the parties have not reached agreement. With respect to
10 each such item, the ~~arbitration board~~ arbitrator's award
11 shall be restricted to the final offers on each impasse
12 item submitted by the parties to the ~~arbitration board or~~
13 ~~to the recommendation of the fact-finder on each impasse~~
14 ~~item~~ arbitrator.

15 Sec. 24. Section 20.22, subsections 10 through 13, Code
16 2009, are amended to read as follows:

17 10. ~~The chairperson of the panel of arbitrators~~ arbitrator
18 ~~may hold hearings and administer oaths, examine witnesses and~~
19 ~~documents, take testimony and receive evidence, and~~ issue
20 subpoenas to compel the attendance of witnesses and the
21 production of records, ~~and delegate such powers to other~~
22 ~~members of the panel of arbitrators~~. The chairperson
23 ~~of the panel of arbitrators~~ arbitrator may petition the
24 district court at the seat of government or of the county in
25 which ~~any~~ the hearing is held to enforce the order of the
26 ~~chairperson~~ arbitrator compelling the attendance of witnesses
27 and the production of records.

28 11. ~~A majority of the panel of arbitrators~~ The
29 arbitrator shall select within fifteen days after ~~its first~~
30 ~~meeting the hearing~~ the most reasonable offer, in ~~it's~~ the
31 arbitrator's judgment, of the final offers on each impasse
32 item submitted by the parties, ~~or the recommendations of the~~
33 ~~fact-finder on each impasse item~~.

34 12. The selections by the ~~panel of arbitrators~~ arbitrator
35 and items agreed upon by the public employer and the employee

1 organization, shall be deemed to be the collective bargaining
2 agreement between the parties.

3 13. The determination of the ~~panel of arbitrators shall~~
4 ~~be by majority vote and~~ arbitrator shall be final and binding
5 subject to the provisions of section 20.17, subsection 6. The
6 ~~panel of arbitrators~~ arbitrator shall give written explanation
7 for ~~its selection~~ the arbitrator's selections and inform the
8 parties of ~~its~~ the decision.

9 Sec. 25. Section 20.22, subsection 4, Code 2009, is amended
10 by striking the subsection and inserting in lieu thereof the
11 following:

12 4. Upon the filing of the request for arbitration, a list
13 of five arbitrators shall be served upon the parties by the
14 board. Within five days of service of the list, the parties
15 shall determine by lot which party shall remove the first name
16 from the list and the parties shall then alternately remove
17 names from the list until the name of one person remains, who
18 shall become the arbitrator. The parties shall immediately
19 notify the board of their selection and the board shall
20 notify the arbitrator. After consultation with the parties,
21 the arbitrator shall set a time and place for an arbitration
22 hearing.

23 Sec. 26. Section 20.22, subsections 5 and 6, Code 2009, are
24 amended by striking the subsections.

25 Sec. 27. Section 20.22, subsections 7 and 8, Code 2009, are
26 amended to read as follows:

27 7. The ~~panel of arbitrators~~ arbitrator shall at no time
28 engage in an effort to mediate or otherwise settle the dispute
29 in any manner other than that prescribed in this section.

30 8. From the time of ~~appointment~~ the board notifies
31 the arbitrator of the selection of the arbitrator until
32 such time as the ~~panel of arbitrators makes its final~~
33 ~~determination~~ arbitrator's selection on each impasse item is
34 made, there shall be no discussion concerning recommendations
35 for settlement of the dispute by the ~~members of the panel of~~

1 ~~arbitrators~~ arbitrator with parties other than those who are
2 direct parties to the dispute. ~~The panel of arbitrators may~~
3 ~~conduct formal or informal hearings to discuss offers submitted~~
4 ~~by both parties.~~

5 Sec. 28. Section 20.22, subsection 9, unnumbered paragraph
6 1, Code 2009, is amended to read as follows:

7 The ~~panel of arbitrators~~ arbitrator shall consider, in
8 addition to any other relevant factors, the following factors:

9 Sec. 29. Section 20.24, Code 2009, is amended to read as
10 follows:

11 **20.24 Notice and service.**

12 Any notice required under the provisions of this chapter
13 shall be in writing, but service thereof shall be sufficient
14 if mailed by restricted certified mail, return receipt
15 requested, addressed to the last known address of the
16 ~~parties~~ intended recipient, unless otherwise provided in this
17 chapter. Refusal of restricted certified mail by any party
18 shall be considered service. ~~Prescribed~~ Unless otherwise
19 provided in this chapter, prescribed time periods shall
20 commence from the date of the receipt of the notice. Any party
21 may at any time execute and deliver an acceptance of service in
22 lieu of mailed notice.

23 Sec. 30. REPEAL. Section 20.21, Code 2009, is repealed.

24 DIVISION II

25 EXECUTIVE BRANCH PUBLIC EMPLOYEE

26 COLLECTIVE BARGAINING — REIMBURSEMENT

27 FOR EMPLOYEE BARGAINING

28 AND GRIEVANCE SERVICES

29 Sec. 31. Section 20.3, Code 2009, is amended by adding the
30 following new subsections:

31 NEW SUBSECTION. 1A. "*Bargaining services*" means those
32 services provided by an employee organization on behalf of
33 public employees in a bargaining unit, exclusive of grievance
34 services, relating to collective bargaining and contract
35 administration.

1 NEW SUBSECTION. 4A. *"Executive branch public employee"*
2 means a public employee who is employed within the executive
3 branch of this state.

4 NEW SUBSECTION. 6A. *"Grievance services"* means those
5 services provided by an employee organization to an employee
6 following the submission of a written grievance by the
7 employee to an employer which relate to the adjustment of that
8 grievance. For purposes of this subsection *"grievance"* means a
9 dispute over the interpretation or application of a collective
10 bargaining agreement.

11 Sec. 32. Section 20.8, subsection 4, Code 2009, is amended
12 to read as follows:

13 4. Refuse to join or participate in the activities of
14 employee organizations, including the payment of any dues, fees
15 or assessments or service fees of any type, except as provided
16 in section 20.32.

17 Sec. 33. Section 20.9, unnumbered paragraph 1, Code 2009,
18 is amended to read as follows:

19 The public employer and the employee organization shall meet
20 at reasonable times, including meetings reasonably in advance
21 of the public employer's budget-making process, to negotiate in
22 good faith with respect to wages, hours, vacations, insurance,
23 holidays, leaves of absence, shift differentials, overtime
24 compensation, supplemental pay, seniority, transfer procedures,
25 job classifications, health and safety matters, evaluation
26 procedures, procedures for staff reduction, in-service training
27 and other matters mutually agreed upon. Negotiations shall
28 also include terms authorizing dues checkoff for members of the
29 employee organization and grievance procedures for resolving
30 any questions arising under the agreement, which shall be
31 embodied in a written agreement and signed by the parties. If
32 an agreement provides for dues checkoff, a member's dues may
33 be checked off only upon the member's written request and the
34 member may terminate the dues checkoff at any time by giving
35 thirty days' written notice. For executive branch public

1 employees, negotiations shall include whether nonmembers of the
2 employee organization shall reimburse the employee organization
3 for bargaining services or grievance services, or both,
4 pursuant to section 20.32. Such obligation to negotiate in
5 good faith does not compel either party to agree to a proposal
6 or make a concession.

7 Sec. 34. NEW SECTION. **20.32 Reasonable reimbursement for**
8 **bargaining and grievance services — procedure.**

9 1. *Overview.* When a collective bargaining agreement
10 between a public employer and a certified employee organization
11 representing executive branch public employees, which
12 provides that an employee organization may receive reasonable
13 reimbursement for bargaining services and grievance services
14 provided to nonmembers of the employee organization, is
15 reached by ratification of the agreement or by issuance of an
16 arbitration award under section 20.22, the provisions of this
17 section shall apply.

18 2. *Bargaining services.*

19 a. (1) The public employer shall provide the employee
20 organization with a list of the names and addresses of
21 employees in the bargaining unit represented by the employee
22 organization not later than forty-five days prior to the
23 date the collective bargaining agreement takes effect. If
24 the collective bargaining agreement has a term of more than
25 one year, the list shall be provided by the public employer
26 annually, not later than thirty days prior to the commencement
27 of the next full year of the contract's term.

28 (2) Following receipt by the employee organization of a
29 list of employees pursuant to paragraph "a", the employee
30 organization shall provide the public employer, if the employee
31 organization decides to seek reimbursement for bargaining
32 services, with the name of each employee who is not a member
33 of the employee organization and is subject to providing
34 reasonable reimbursement for bargaining services and the amount
35 determined to reasonably reimburse the employee organization

1 for bargaining services provided.

2 *b.* (1) The employee organization shall provide the labor
3 commissioner with the reasonable reimbursement amount and any
4 supporting documentation utilized in determining the reasonable
5 reimbursement amount.

6 (2) Commencing on the effective date of the collective
7 bargaining agreement which provides for the reimbursement
8 of bargaining services or, twenty days after the public
9 employer's receipt of the names and amounts from the employee
10 organization, whichever occurs later, the public employer
11 shall, if the employee subject to reasonable reimbursement so
12 elects or if the employee does not otherwise reimburse the
13 employee organization for bargaining services in a manner
14 authorized by the employee organization, deduct by pay period
15 or once each month from the wages or salaries of each employee
16 required to provide reasonable reimbursement the reasonable
17 reimbursement amount specified for that nonmember by the
18 employee organization and transmit the amounts deducted to the
19 employee organization within thirty days of the deduction.
20 If a collective bargaining agreement includes a retroactive
21 effective date, the public employee shall be responsible for
22 providing reasonable reimbursement for bargaining services
23 prospectively only.

24 *c.* For purposes of determining the reasonable reimbursement
25 amount for bargaining services for a nonmember of the employee
26 organization, the amount shall not exceed sixty-five percent
27 of the regular membership dues that the nonmember would
28 have to pay if the nonmember were a member of the employee
29 organization for that bargaining unit, shall not include costs
30 for grievance services, and shall not include any share of the
31 costs incurred by the employee organization for fraternal,
32 ideological, political, or other activities that are not
33 germane to collective bargaining and contract administration.
34 Costs that shall be excluded from the reasonable reimbursement
35 amount include but are not limited to costs for social events;

1 lobbying on issues or for purposes other than the negotiation,
2 ratification, or implementation of a collective bargaining
3 agreement; voter registration training; efforts to increase
4 voting; training in political campaign techniques; supporting
5 or contributing to charitable organizations; and supporting or
6 contributing to religious or other ideological causes.

7 *d.* As a precondition to the collection of a reasonable
8 reimbursement amount for bargaining services, the employee
9 organization shall establish and maintain a full and
10 fair procedure that conforms with the requirements of the
11 Constitution of the United States and the Constitution of the
12 State of Iowa and does all of the following:

13 (1) Provides nonmembers of the employee organization
14 with an annual notice not later than thirty days prior to
15 the commencement of each full year of the contract's term
16 which informs them of the reasonable reimbursement amount for
17 bargaining services, provides them with detailed financial
18 information on the calculation of the reasonable reimbursement
19 amount, informs them of the procedure by which a nonmember may
20 challenge that amount, and provides them with a mechanism for
21 reimbursing the employee organization for bargaining services
22 in lieu of a deduction from wages or salaries as provided in
23 paragraph "b", subparagraph (2).

24 (2) Permits challenges by nonmembers to the reasonable
25 reimbursement amount for bargaining services.

26 (3) Provides for the consolidation of all timely challenges
27 and for an impartial hearing, before an arbitrator appointed by
28 the American arbitration association pursuant to its rules for
29 impartial determination of union fees, conducted in accordance
30 with those rules and paid for by the employee organization.

31 (4) Provides that the burden of proof relating to the
32 propriety of the reasonable reimbursement amount for bargaining
33 services is on the employee organization.

34 (5) Provides that all reasonable reimbursement amounts
35 reasonably in dispute while a challenge is pending shall be

1 held by the employee organization in an interest-bearing escrow
2 account until a final decision is issued by the arbitrator, at
3 which time such funds shall be disbursed in accordance with the
4 arbitrator's decision.

5 e. The employee organization shall notify the public
6 employer of any arbitrator's award issued pursuant to the
7 challenge procedure specified in paragraph "d" which reduced
8 the reasonable reimbursement amount for bargaining services and
9 the public employer shall adjust its deduction from the wages
10 or salaries of the challenging nonmembers accordingly.

11 f. This subsection shall be enforced through an action in a
12 court of competent jurisdiction.

13 3. *Grievance services.*

14 a. As a precondition to the collection of a reasonable
15 reimbursement amount for grievance services, the employee
16 organization shall establish and maintain a full and
17 fair procedure that conforms with the requirements of the
18 Constitution of the United States and the Constitution of the
19 State of Iowa and shall provide nonmembers of the employee
20 organization with an annual notice, not later than thirty
21 days prior to the commencement of each full year of the
22 contract's term, which informs them of the maximum reasonable
23 reimbursement amount for grievance services, and provides them
24 with sufficient information to gauge the propriety of that
25 amount.

26 b. If a nonmember of an employee organization subject to
27 this section requests and receives grievance services, the
28 employee organization shall be entitled to receive reasonable
29 reimbursement for the actual cost of the grievance services.
30 However, the maximum reasonable reimbursement amount to be
31 collected by the employee organization from a nonmember during
32 any full year of the contract's term shall not exceed an amount
33 equal to ten percent of the annual membership dues that the
34 nonmember would have to pay if the nonmember were a member of
35 the employee organization for that bargaining unit.

1 *c.* This subsection shall be enforced through an action in a
2 court of competent jurisdiction.

3 Sec. 35. APPLICABILITY — COLLECTIVE BARGAINING
4 AGREEMENTS. The provisions of this division of this Act
5 providing for reasonable reimbursement of bargaining services
6 and grievance services apply to collective bargaining
7 agreements entered into on or after the effective date of this
8 Act.

9	EXPLANATION
---	-------------

10 This bill deals with public employee collective bargaining.

11 Division I of the bill concerns public employee collective
12 bargaining generally.

13 Code section 20.1, subsection 2, is amended to provide that
14 one of the powers and duties of the public employment relations
15 board (PERB) is to represent the board in court.

16 Code section 20.6 is amended to provide that PERB shall
17 interpret, apply, and administer the provisions of Code chapter
18 20.

19 Code section 20.10, subsection 4, is amended to specifically
20 provide that oral expression of views without threat of
21 reprisal or force shall not constitute or be evidence of a
22 prohibited practice.

23 Code section 20.11 is amended to allow a presiding officer
24 in a prohibited practice hearing to hear the case through the
25 use of technology from a location other than the county where
26 the alleged violation occurred. The bill also allows PERB to
27 designate one of its members or any other qualified person to
28 preside at a prohibited practice hearing.

29 The bill amends Code sections 20.11, 20.13, and 20.14
30 to provide that Code chapter 17A, the Iowa administrative
31 procedure Act, governs hearing and appeal proceedings described
32 in those sections.

33 Code section 20.15, concerning certification elections for
34 exclusive bargaining representation, is amended. The bill
35 provides that a petition for certification of an exclusive

1 bargaining representative for a bargaining unit cannot
2 occur if that bargaining unit is currently represented by an
3 exclusive bargaining representative. The bill also provides
4 that a petition for decertification of a certified exclusive
5 bargaining representative cannot occur for a period of one year
6 from the date of certification or the date of its continuing
7 certification or during the duration of a collective bargaining
8 agreement.

9 Code section 20.17, subsection 3, concerning bargaining
10 procedures, is amended to provide that parties utilizing a
11 cooperative alternative bargaining process may exchange their
12 initial interest statements in lieu of an initial bargaining
13 position during bargaining.

14 Code section 20.17, subsection 11, concerning the deadlines
15 for community college employee bargaining, is amended to
16 match the provisions of the subsection applicable to other
17 educational bargaining units.

18 Code section 20.18, concerning grievance procedures,
19 is amended to provide that an agreement with an employee
20 organization may include procedures for the consideration
21 of employee organization grievances in addition to public
22 employee grievances. The section is also amended to provide
23 that arbitration shall be invoked only with the approval of
24 the employee organization in all instances and, for employee
25 grievances, the additional approval of the employee.

26 Code section 20.19, concerning impasse procedures, is
27 amended to provide that if the public employer is not subject
28 to the budget certification requirements of Code section 24.17,
29 the agreement shall provide for impasse procedures no later
30 than 120 days prior to the date agreed upon by the parties, or
31 if no agreement is reached, May 31 of the year the collective
32 bargaining agreement is to be effective. The Code section
33 is also amended to require that parties using a cooperative
34 alternative bargaining process establish impasse procedures at
35 the outset of the process.

1 Code section 20.20, concerning mediation, is amended to
2 provide that if the public employer is not subject to the
3 budget certification requirements of Code section 24.17 and
4 impasse procedures are neither agreed to nor utilized, PERB
5 will, upon the request of either party, appoint a mediator 120
6 days prior to May 31 of the year the collective bargaining
7 agreement is to be effective.

8 Code section 20.21, concerning fact-finding procedures,
9 is repealed to eliminate fact-finding from public employee
10 collective bargaining. Corresponding amendments are made
11 throughout Code chapter 20.

12 Code section 20.22, concerning binding arbitration, is
13 amended to provide that arbitration will be conducted by a
14 single arbitrator and not a panel of arbitrators. The bill
15 also provides for the method of selecting the arbitrator. The
16 bill provides that PERB will submit a list of five arbitrators
17 to the parties upon the filing of a request for arbitration
18 and then each party, in an order determined by lot, shall
19 alternatively remove names from the list until one name
20 remains.

21 Division II of the bill concerns executive branch public
22 employee collective bargaining with respect to reasonable
23 reimbursement of services provided by an employee organization
24 to nonmembers.

25 Code section 20.3 is amended to define bargaining services,
26 executive branch public employees, and grievance services. The
27 bill defines "bargaining services" as those services provided
28 to all employees in a bargaining unit, exclusive of grievance
29 services, for purposes of collective bargaining and contract
30 administration. "Executive branch public employees" is defined
31 to include all employees employed within the state executive
32 branch. The bill defines "grievance services" to mean those
33 services provided by an employee organization on behalf of an
34 employee following the submission of a written grievance by the
35 employee to an employer which relate to the adjustment of that

1 grievance. The bill also defines "grievance".

2 Code section 20.9 is amended to provide that, for executive
3 branch public employees, negotiations shall include whether
4 nonmembers of the employee organization shall reimburse the
5 employee organization for bargaining services or grievance
6 services, or both, provided pursuant to the requirements of new
7 Code section 20.32.

8 New Code section 20.32 establishes the procedures to
9 follow if an employee organization representing executive
10 branch public employees is entitled, pursuant to a collective
11 bargaining agreement, to receive reasonable reimbursement
12 for bargaining services and grievance services provided to
13 nonmembers of the employee organization.

14 For reimbursement of bargaining services, the new Code
15 section provides that once an agreement is ratified or an
16 arbitration award is issued that provides for reasonable
17 reimbursement of bargaining services, the public employer
18 shall, no later than 45 days prior to the date the agreement
19 takes effect, provide the employee organization with a list of
20 employees covered by the agreement. If the agreement has a
21 term of more than one year, the employer shall provide the list
22 on an annual basis. Once the employee organization receives
23 the list, the employee organization, if it decides to receive
24 reasonable reimbursement, shall provide the employer with a
25 list of each nonmember of the employee organization and the
26 reasonable reimbursement amount for bargaining services. The
27 employee organization shall also inform the labor commissioner
28 of the reasonable reimbursement amount for bargaining services
29 and how it was determined. The bill provides that the
30 reasonable reimbursement amount for bargaining services shall
31 not exceed 65 percent of the regular membership dues that
32 the nonmember would have paid as a member, shall not include
33 costs for grievance services, and shall not include costs of
34 the employee organization that are not costs incurred by the
35 employee organization and germane to collective bargaining, and

1 contract administration. The bill provides that the public
2 employer shall begin deducting the reasonable reimbursement
3 amount for bargaining services from nonmembers upon the later
4 of the effective date of the collective bargaining agreement
5 or 20 days after the public employer receives the list of
6 nonmembers and the amount of the reasonable reimbursement
7 amount for bargaining services. The bill provides that no
8 retroactive reimbursements are required.

9 For reimbursement of grievance services, the new
10 Code section provides that if a nonmember of an employee
11 organization receives grievance services, the employee
12 organization shall be entitled to receive reasonable
13 reimbursement for the actual cost of the grievance services.
14 However, the bill provides that the maximum reasonable
15 reimbursement amount or amounts to be collected by the
16 employee organization from a nonmember during any full year
17 of the contract's term shall not exceed an amount equal to
18 10 percent of the annual membership dues of the employee
19 organization. The employee organization may enforce its right
20 to reimbursement through an action in a court of competent
21 jurisdiction.

22 The bill further provides that the provisions of the bill
23 providing for reasonable reimbursement of bargaining and
24 grievance services shall only apply to collective bargaining
25 agreements entered into on or after the effective date of the
26 bill.